
From: Buongiorno, Matt <MBuongiorno@gibsondunn.com>
Sent: Monday, November 29, 2021 7:37 PM
To: Cari Laufenberg; Lesley Weaver; Daniel B. Garrie
Cc: Kutscher Clark, Martie; Gail Andler; Daniel Garrie; Stein, Deborah L.; Falconer, Russ; Anne Davis; Matt Melamed; David Ko; Snyder, Orin; Chris Springer; Mumm, Laura C.; Derek Loeser
Subject: RE: Summary if mediation on November 17 2021

Dear Special Master Garrie and Counsel,

We confirm that we can take Tyler King's deposition on December 20 beginning at 2 PM PST, so long as a late start time works for Special Master Garrie on that day. We also can confirm Ms. Chang's deposition on December 16, Mr. Zarakhovsky's deposition on December 22, Mr. Lessin's deposition on January 13, and Mr. Garcia-Martinez's deposition on January 18, subject to our ongoing privilege-related objections that the parties are currently mediating.

We do not understand why Plaintiffs are providing Terry Fischer's availability for a deposition on December 17, as Ms. Fischer was not included in our list of 10 proposed deponents for Phase I. **Please provide availability for the Named Plaintiffs we have asked to depose during Phase 1.** Of the 10 witnesses we identified for Phase 1, Plaintiffs have provided availability for only 3.

We ask Plaintiffs to prioritize providing dates for Jordan O'Hara and Jason Ariciu. Plaintiffs have not objected to these depositions, and we previously agreed to depose Mr. Ariciu on December 20 and Mr. O'Hara on December 10. These were dates Plaintiffs originally proposed for these deponents, and after we accepted them, Plaintiffs proposed that Facebook depose other witnesses on those dates instead, without proposing alternate dates for Mr. Ariciu and Mr. O'Hara.

We note that, consistent with Section IV.C.32 of the Deposition Protocol, Special Master Garrie should be present at these parties' depositions. Special Master Garrie, would you please let the parties know if you have conflicts with any of the following dates which the parties have agreed to, subject to your availability and the privilege issues the parties are discussing.

- Senko – 12/10
- Chang – 12/16
- King – 12/20 (beginning at 2pm PT)
- Zarakhovsky – 12/22
- Lessin – 1/13
- Garcia-Martinez – 1/18
- Akins – 1/20

In addition, please let us know if there are particular dates in December and January that do not work for you, so that the parties can be sure to schedule around them.

Thank you,

Matt Buongiorno

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From: Cari Laufenberg <claufenberg@KellerRohrback.com>

Sent: Wednesday, November 24, 2021 3:51 PM

To: Buongiorno, Matt <MBuongiorno@gibsondunn.com>; Lesley Weaver <lweaver@bfalaw.com>; Daniel B. Garrie <Daniel@lawandforensics.com>

Cc: Kutscher Clark, Martie <MKutscherClark@gibsondunn.com>; Gail Andler <JudgeAndler@icloud.com>; Daniel Garrie <DGarrie@jamsadr.com>; Stein, Deborah L. <DStein@gibsondunn.com>; Falconer, Russ <RFalconer@gibsondunn.com>; Anne Davis <adavis@bfalaw.com>; Matt Melamed <mmelamed@bfalaw.com>; David Ko <dko@KellerRohrback.com>; Snyder, Orin <OSnyder@gibsondunn.com>; Chris Springer <cspringer@KellerRohrback.com>; Mumm, Laura C. <LMumm@gibsondunn.com>; Derek Loeser <dloeser@KellerRohrback.com>

Subject: Re: Summary if mediation on November 17 2021

[WARNING: External Email]

Counsel,

We can offer Terry Fischer for December 17. Please let us know by early next week if this works for Facebook.

Wishing all a happy thanksgiving and weekend.

Cari

From: Cari Laufenberg <claufenberg@KellerRohrback.com>

Sent: Tuesday, November 23, 2021 4:51 PM

To: Buongiorno, Matt; Lesley Weaver; Daniel B. Garrie

Cc: Kutscher Clark, Martie; Gail Andler; Daniel Garrie; Stein, Deborah L.; Falconer, Russ; Anne Davis; Matt Melamed; David Ko; Snyder, Orin; Chris Springer; Mumm, Laura C.; Derek Loeser

Subject: RE: Summary if mediation on November 17 2021

Counsel,

Thank you for confirming December 10 for Cheryl Senko.

Given FB's inability to make December 2 or 3 work, we can offer December 20 for Tyler King at the same start time (7 a.m. her time). Please let us know if that date will work for Facebook.

Mr. Ariciu is no longer available on December 20 but we are working to identify other available dates for him as well as Mr. O'Hara. Additionally, we are assessing whether another Named Plaintiff can be made available on or around December 20.

As to the issue of privilege Facebook has raised with regard to the depositions of Jackie Chang, Eugene Zarakhovsky and Sam Lessin, Plaintiffs understood per Special Master Garrie's November 17 email that the parties were to exchange submissions on that issue by 5 pm PST today. Our submission is forthcoming shortly.

Likewise, our submission will also address the good cause basis as to deposing Mike Vernal and Annie Lewis.

We appreciate your efforts to identify an earlier date for Mr. Garcia-Martinez. In the event an earlier date cannot be found, Plaintiffs confirm the date offered (January 18, 2022).

Many thanks,
Cari

Cari Campen Laufenberg (*she/her*)
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From: Buongiorno, Matt <MBuongiorno@gibsondunn.com>
Sent: Tuesday, November 23, 2021 1:17 PM
To: Lesley Weaver <lweaver@bfalaw.com>; Daniel B. Garrie <Daniel@lawandforensics.com>
Cc: Kutscher Clark, Martie <MKutscherClark@gibsondunn.com>; Gail Andler <JudgeAndler@icloud.com>; Daniel Garrie <DGarrie@jamsadr.com>; Stein, Deborah L. <DStein@gibsondunn.com>; Falconer, Russ <RFalconer@gibsondunn.com>; Anne Davis <adavis@bfalaw.com>; Matt Melamed <mmelamed@bfalaw.com>; David Ko <dko@KellerRohrback.com>; Snyder, Orin <OSnyder@gibsondunn.com>; Cari Laufenberg <claufenberg@KellerRohrback.com>; Chris Springer <cspringer@KellerRohrback.com>; Mumm, Laura C. <LMumm@gibsondunn.com>; Derek Loeser <dloeser@KellerRohrback.com>
Subject: RE: Summary if mediation on November 17 2021

Counsel,

Thank you for confirming your availability to depose Facebook witnesses as follows:

- Jackie Chang (Dec. 16),
- Eugene Zarakovsky (Dec. 22),
- and Sam Lessin (Jan. 13).

Before we lock in these dates, we await Plaintiffs' confirmation that, consistent with the parties' Privilege Protocol, Plaintiffs will not depose Facebook witnesses on issues where the parties have unresolved privilege disputes—the parties agreed any such depositions should wait until privilege disputes are resolved. We have asked Plaintiffs to confirm that they intend to comply with this aspect of the privilege protocol multiple times, including most recently in our November 9 correspondence and November 16 email to you, and are concerned that you have not done so. Once we receive Plaintiffs' confirmation that they will not depose witnesses on issues where the parties have unresolved privilege disputes, Facebook will confirm these dates. To be clear, Facebook confirms it will not depose Plaintiffs on issues where the parties have unresolved privilege disputes.

We also confirm the following Named Plaintiff deposition:

- Cheryl Senko (Dec. 10)—please thank Ms. Senko for making herself available on a weekday.

As for the other Named Plaintiff depositions we requested:

- Plaintiffs previously offered to make Jordan O'Hara available on Dec. 10 and we accepted. Given that Plaintiffs now wish for Ms. Senko's deposition to move forward on December 10, please provide an alternate date for Mr. O'Hara the week of December 13.
- Please also confirm that Jason Ariciu is available for deposition on Dec. 20, a date you proposed for him but have not yet confirmed to actually be available.
- We are no longer able to take Tyler King's deposition on Dec. 2 or 3. We made clear last week that, given the rapidly approaching date and Thanksgiving holiday, if Ms. King was able on either of those dates, we needed to know by the end of the day last Wednesday. Given that Plaintiffs waited 5 days to confirm a deposition that is now 6 business days away (with an intervening holiday), we request that Plaintiffs provide other dates Ms. King is available in December and January.

Antonio Garcia-Martinez remains available on January 18. We will continue to explore whether he might be available before that date, but note that we are surprised that Plaintiffs will not accept this alternate date. We have accepted alternate dates proposed by Plaintiffs for nearly all of the Named Plaintiffs.

With respect to Mike Vernal and Annie Lewis, under the Special Master's Deposition Protocol, Plaintiffs are required to show good cause as to why these depositions for which there are prior deposition transcripts are necessary. Plaintiffs have not done so.

Thanks,

Matt Buongiorno

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From: Lesley Weaver <lweaver@bfalaw.com>

Sent: Monday, November 22, 2021 1:49 PM

To: Daniel B. Garrie <Daniel@lawandforensics.com>

Cc: Kutscher Clark, Martie <MKutscherClark@gibsondunn.com>; Gail Andler <JudgeAndler@icloud.com>; Daniel Garrie <DGarrie@jamsadr.com>; Stein, Deborah L. <DStein@gibsondunn.com>; Falconer, Russ <RFalconer@gibsondunn.com>; Anne Davis <adavis@bfalaw.com>; Matthew Melamed <mmelamed@bfalaw.com>; David Ko <dko@kellerrohrback.com>; Snyder, Orin <OSnyder@gibsondunn.com>; Cari Laufenberg <claufenberg@kellerrohrback.com>; Chris Springer <cspringer@kellerrohrback.com>; Mumm, Laura C. <LMumm@gibsondunn.com>; Derek Loeser <dloeser@kellerrohrback.com>

Subject: Re: Summary if mediation on November 17 2021

[WARNING: External Email]

Good morning,

This email confirms that Plaintiffs accept all of the dates offered by Facebook, including:

12/16: Jackie Chan

12/22: Eugene Zarakhovsky

1/23: Sam Lessin

Plaintiffs await a date for Antonio Garcia-Martinez closer in time.

Plaintiffs continue to seek dates for Mike Vernal and Annie Lewis as part of the first tranche.

We will send separate correspondence shortly regarding Plaintiffs' depositions. However, in the meantime we follow up to schedule Tyler King on 12/2 or 12/3 at 7 a.m. her time. Please confirm which date in short order, given the holidays and the logistics of arranging that deposition. Further, Plaintiff Senko is available on 12/10.

We look forward to confirming these dates.

Regards,

Lesley

On Nov 17, 2021, at 6:42 PM, Daniel B. Garrie <Daniel@lawandforensics.com> wrote:

Counsel,

Thanks for your time today. Good news, each side has 1-deposition on the calendar - Sam Lessin - Jan 13; Steve Akins Jan 20

Additionally, Plaintiffs agreed to inform Facebook once they hear from Jordon O'Hara (12/10) and Tyler King (12/2 or 12/3 at 2 pm PST) work for scheduling.

Regarding the date Facebook suggested for Jackie Chan (12/16) and Eugene Zarakhovsky (12/22), Plaintiff will inform Facebook as soon as possible if these dates work. Facebook will also check with Antonio Garcia-Martinez to see if an earlier date is available and revert promptly.

The parties both agreed to exchange submissions on the issues of "Prior Deposition Transcript" (Pl.), "Raised potential privilege concerns" (Pl.), and "Objection to Deposition" (Facebook). The parties will exchange submissions on 11/23 before 5 pm PST and submit a response on 12/1 before 5 pm PST. All submissions will be done via email, with relevant exhibits attached (no letters or briefs). We will review the submissions and declare an impasse, if appropriate.

Kindly make sure all Orders issued to date are filed before EOD Friday or provide an explanation for the delay.

We both wish you a happy thanksgiving!

Daniel Garrie and Judge Andler

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